

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 Mathew Young,

5 Plaintiff

6 v.

7 Grootboom, et. al.,

8 Defendants

Case No. 2:23-cv-01374-JAD-NJK

**Order Dismissing
and Closing Case**

9 Plaintiff Mathew Young brings this civil-rights lawsuit to redress constitutional violations
10 that he claims he suffered while incarcerated at Nevada’s High Desert State Prison. On April 22,
11 2024, this court denied Young’s application to proceed *in forma pauperis* for an inmate as moot
12 because he is no longer incarcerated, and ordered him to either pay the full \$402 filing fee or file
13 an application to proceed *in forma pauperis* for non-inmates by May 22, 2024.¹ That deadline
14 expired without payment of the filing fee or a new application to proceed *in forma pauperis*, and
15 Young’s mail from this court is being returned as undeliverable.²

16 District courts have the inherent power to control their dockets and “[i]n the exercise of
17 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.³ A
18 court may dismiss an action based on a party’s failure to obey a court order or comply with local
19 rules.⁴ In determining whether to dismiss an action on one of these grounds, the court must

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21 ¹ ECF No. 5.

22 ² ECF No. 6.

23 ³ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

⁴ *See Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S.*

1 consider: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to
 2 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
 3 disposition of cases on their merits; and (5) the availability of less drastic alternatives.⁵

4 The first two factors, the public’s interest in expeditiously resolving this litigation and the
 5 court’s interest in managing its docket, weigh in favor of dismissal of the plaintiff’s claims. The
 6 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a
 7 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
 8 ordered by the court or prosecuting an action.⁶ The fourth factor—the public policy favoring
 9 disposition of cases on their merits—is greatly outweighed by the factors favoring dismissal.

10 The fifth factor requires the court to consider whether less drastic alternatives can be used
 11 to correct the party’s failure that brought about the court’s need to consider dismissal.⁷ Courts
 12 “need not exhaust every sanction short of dismissal before finally dismissing a case, but must
 13 explore possible and meaningful alternatives.”⁸ Because this court cannot operate without
 14 collecting reasonable fees, and litigation cannot progress without a plaintiff’s compliance with
 15 the court’s order, the only alternative is to enter a second order setting another deadline. But

17 *Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order).

18 ⁵ *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

19 ⁶ *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

20 ⁷ *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less
 21 drastic alternatives *before* the party has disobeyed a court order does not satisfy this factor);
 22 *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the
 23 persuasive force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic
 alternatives prior to disobedience of the court’s order as satisfying this element[.]” i.e., like the
 “initial granting of leave to amend coupled with the warning of dismissal for failure to
 comply[.]” have been “eroded” by *Yourish*).

⁸ *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986).

1 without an updated address, the likelihood that the second order would even reach the plaintiff is
2 low, so issuing a second order will only delay the inevitable and further squander the court's
3 finite resources. Setting another deadline is not a meaningful alternative given these
4 circumstances. So the fifth factor favors dismissal.

5 Having thoroughly weighed these dismissal factors, I find that they weigh in favor of
6 dismissal. IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** without
7 prejudice based on the plaintiff's failure to address the matter of the filing fee in compliance with
8 this court's April 22, 2024, order. The Clerk of Court is directed to **ENTER JUDGMENT**
9 accordingly and **CLOSE THIS CASE**. If Mathew Young wishes to pursue his claims, he must
10 file a complaint in a new case, provide the court with his current address, and either pay the
11 required filing fee or apply for *pauper* status.

12 Dated: June 2, 2024

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15 U.S. District Judge Jennifer A. Dorsey
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